



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,391	06/28/2001	Michael Epstein	US 010314	6445

24737 7590 01/26/2005

PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P.O. BOX 3001  
BRIARCLIFF MANOR, NY 10510

EXAMINER
----------

TRUONG, LAN DAI T

ART UNIT	PAPER NUMBER
----------	--------------

2132

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application N .	Applicant(s)	
	09/894,391	EPSTEIN, MICHAEL	
	Examiner	Art Unit	
	lan dai thi truong	2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 06/28/2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>Nov/12/02</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### **Claim rejections-35 USC § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1) Claim 6 is rejected under 35. U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention

In referring to claim 6:

The terms "priori" and "time-consuming" in claim 6 are relative terms which renders the claim indefinite as "wherein the assessment of the response times forms an assessment of whether the one or more responses were available a priori, or whether the one or more responses were a result of a time-consuming determination". The term "priori" and "time-consuming" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention

### **Claim rejections-35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2) Claims 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Hershey et al. (U.S. 4,924,378), herein after referred to as Hershey

In referring to claim 1, the limitation:

- “A verifier that is configured to determine an authorization to process protected material, based on one or more responses to one or more requests”, is matched (column 5, line 19; column 6, lines 50-53, 65-68; column 7, lines 11-21; column 3, lines 56-67; column 5, lines 2-3 )

Hershey disclosed a System For Managing Software Licenses by limiting the number of computers permitted to run a program to the number of licenses granted. This system measures which discourage persons from trying to run a program without a license by getting around the check points, if a license is not available, the application program will not be able to run.

Hershey disclosed microprocessor which is equivalent to “a verifier” verifies communication between License Storage Key and a Work Station. He taught that the microprocessor verifies requests and responses between License Storage Key and a Work Station to determine that a license exists or not. So, Hershey’s ideas meet limitation “A verifier that is configured to determine an authorization to process protected material, based on one or more responses to one or more requests.”

- “A timer that is configured to measure response times associated with the one or more responses to the one or more requests; wherein the verifier is configured to determine the authorization based at least in part on an assessment of the response times” is matched (column 5, lines 27-35)

Hershey disclosed a timer is set when a request is sent out from work station to the License Storage Key to measure the response time for system, and base on the time is set by the timer, if a response is not received within the setting time, then an error is returned to requestor, what is share identical functionality with “A timer that is configured to measure response times associated with the one or more responses to the one or more requests; wherein the verifier is configured to determine the authorization based at least in part on an assessment of the response times”

3) Claims 2 is rejected under 35 U.S.C. 102(e) as being anticipated by Hershey et al. (U.S. 4,924,378), herein after referred to as Hershey

In referring to claim 2: the limitation

“The verifier is configured to form the assessment based on at least one of:

- An average of the response times,
- A comparison of the response times to one or more threshold times, and a statistical test based on the response times” is matched (column 5, lines 27-35)

Hershey disclosed how the system keeps track of responses it is waiting for. He taught that the system compares the response time with the time is “ the threshold time” set by timer to determine if it is valid request or not, if the response is not receive within the time set by timer,

then an error is returned to the requestor. So ideally, Hershey's method meets limitation "The verifier is configured to form the assessment based on at least one of:

- An average of the response times,
- A comparison of the response times to one or more threshold times, and a statistical test based on the response times"

7) Claims 7 is rejected under 35 U.S.C. 102(e) as being anticipated by Hershey et al. (U.S. 4,924,378), herein after referred to as Hershey

In referring to claim 7, the limitation:

"A processing system comprising:

- "A renderer that is configured to receive a plurality of data items corresponding to a data set, and to produce therefrom a rendering corresponding to a select data item" is matched (abstract, lines 5-12; column 1, lines 20-27; column 3, lines 22-29)

Hershey disclose a method for managing computer program license, Hershey taught that license storage key which is equivalent to "renderer" holds the information as to which program are licensed, how many licenses are available for that program and which licenses are assigned. The license storage key is accessed from work station to check to determine if a license is available for assignment to that application program, if a license is not available, the application program will not be able to run, an application program to be run on a computer must be assigned a license in the license storage key associated with the computer before it will be permitted to run, for those knowledge, Hershey's system meets limitation "A renderer that is

configured to receive a plurality of data items corresponding to a data set, and to produce therefrom a rendering corresponding to a select data item”.

- “A verifier, operably coupled to the renderer, that is configured to preclude the rendering corresponding to the select data item in dependence upon whether other data items of the plurality of data items are available to the renderer” is matched (column 3, lines 40-64; column 4, lines 25-30; column 5, lines 2-3, 8-11, 19; column 6, lines 50-67; column 7, lines 1-20)

Beside, Hershey taught that the license storage key has it's own microprocessor which is equivalent to “verifier” which receives request from work station and check the request to determine that there has been no error in the transmission, if a response is not received within the time set by the timer, then the error is returned to the requestor, which is shared identical functionality with “A verifier, operably coupled to the renderer, that is configured to preclude the rendering corresponding to the select data item in dependence upon whether other data items of the plurality of data items are available to the renderer”

- A timer, operably coupled to the verifier and renderer, that is configured to measure response times associated with responses to request for the other data items from the render; wherein the verifier is configured to preclude the rendering based at least in part on an assessment of the response times” is matched (column 5, lines 27-36)

Hershey disclosed a timer is set in the operating system of the work station to keep track of responses it is waiting for, and based on comparison between response time and the time is set by timer the verifier determines that it is valid request or not, if a response is not received within

Art Unit: 2132

the time set by timer, the an error is returned to the requestor. So, ideally, Hershey's method meets limitation "A timer, operably coupled to the verifier and renderer, that is configured to measure response times associated with responses to request for the other data items from the render; wherein the verifier is configured to preclude the rendering based at least in part on an assessment of the response times".

4) Claims 9 is rejected under 35 U.S.C. 102(e) as being anticipated by Hershey et al. (U.S. 4,924,378), herein after referred to as Hershey

In referring to claim 9, the limitation:

"The processing system of claim 7, wherein the verifier is configured to form the assessment based on at least one of:

- An average of the response times,
- A comparison of the response times to one or more threshold times, and
- A statistical test based on the response times." is matched (column 5, lines 27-35)

Hershey disclosed how the system keeps track of responses it is waiting for. He taught that the system compares the response time with the time is "the threshold time" set by timer to determine if it is valid request or not. So ideally, Hershey's method meets limitation "The verifier is configured to form the assessment based on a comparison of the response times to one or more threshold times"

### **Claim rejections-35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:



(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5) Claim 3 is rejected under 35 U.S.C. 103(a) as being un-patentable over Hershey et al. (U.S. 4,924,378), and further in view of Zoest et al. (U.S. 6,496,802)

In referring to claim 3, the limitation:

“The verifier is configured to provide the one or more requests, based on a random selection of one or more items to request” is not disclosed in Hershey.

However, Zoest disclosed a Verification Server what is equivalent to “verifier” verifies that if the user is authorized to access an electronic work. He taught that the verification server may look-up random sample of data related to request and compares this sample data with data extracted from a physical work, base on comparison the Verification Server determines that if the user is authorized to access an electronic work, see (column 5, lines 21-39; column 8, lines 67; column 9, lines 1-4). It would have been obvious to a person of ordinary skill in the art at the time the invention was make to modify the verifier of Hershey to provide for random samples of data is taught in Zoest. The combination would have been obvious because on of ordinary skill in the art would have been motivated to verify that the users are authorized to access an electronic copy of the work based on a random selection of requests, see (Zoest: col.9, lines 1-4).

6) Claim 4 is rejected under 35 U.S.C. 103(a) as being un-patentable over Hershey et al. (U.S. 4,924,378), and further in view of Sicola et al. (U.S. 6,658,590)

In referring to claim 4, the limitation:

“The response times are correlated to a physical proximity between a first source of the one or more request and a second source of the one or more responses” is taught in Sicola (column 11, lines 14-20; abstract lines 1-4)

Sicola disclosed a system provides a completely redundant configuration including Fibre Channel fabric links interconnecting each component of two data storage sites. In his invention, Sicola mentions about “long distances between sites mean longer response times”. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Hershey as taught in Sicola to correlate distance and response time. The combination would have been obvious because one of ordinary skill in the art would have been motivated to correlate longer response time to distance. (Sicola: column 11, lines 14-20)

7) Claim 5 is rejected under 35 U.S.C. 103(a) as being un-patentable over Hershey et al. (U.S. 4,924,378), and further in view of Hanes et al. (U.S. 5,440,719)

In referring to claim 5, the limitation:

“The security system of claim 1, wherein the assessment of the response times forms an assessment of whether the one or more responses were communicated via a network connection” is not disclosed in Hershey.

However, Hanes disclosed a method for modeling traffic on a network according to a Client/Server paradigm. In the invention, Hanes taught that in the network the increased traffic will slowdown the overall system response time from the server to the client in accordance with the model of the network, see (column. 12, lines 20-34). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Hershey as taught in Hanes to correlate response time to traffic in network. The combination would have been

Art Unit: 2132

obvious because on of ordinary skill in the art would have been motivated to provide the relationship between traffic in network and response time, the increasing traffic in network will cause the increasing of response time (Hanes: column. 12, lines 20-34)

8) Claim 8 is rejected under 35 U.S.C. 103(a) as being un-patentable over Hershey et al. (U.S. 4,924,378), and further in view of Sicola et al. (U.S. 6,658,590)

In referring to claim 8, the limitation:

“Wherein the assessment of the response times corresponds to a determination of whether the other data items are located in physical proximity to the renderer” is not disclosed in Hershey

However, Sicola disclosed a system provides a completely redundant configuration including Fibre Channel fabric links interconnecting each component of two data storage sites. In his invention, Sicola mentions about “long distances between sites mean longer response times,” see (column 11, lines 15-17). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Hershey as taught in Sicola to correlate distance and response time. The combination would have been obvious because on of ordinary skill in the art would have been motivated to correlate longer response time to distance. (Sicola: column 11, lines 15-17)

9) Claim 10 is rejected under 35 U.S.C. 103(a) as being un-patentable over Hershey et al. (U.S. 4,924,378), and further in view of Zoest et al. (U.S. 6,496,802)

In referring to claim 10, the limitation:

“The verifier is configured to randomly select the other data items” is not disclosed in Hershey.

However, Zoest disclosed a Verification Server what is equivalent to “verifier” verifies that if the user is authorized to access an electronic work. He taught that the verification server may look-up random sample of data related to request and compares this sample data with data extracted from a physical work, base on comparison the Verification Server determines that if the user is authorized to access an electronic work, see (column 5, lines 21-39; column 8, lines 67; column 9, lines 1-4). It would have been obvious to a person of ordinary skill in the art at the time the invention was make to modify the verifier of Hershey to provide for random samples of data is taught in Zoest. The combination would have been obvious because on of ordinary skill in the art would have been motivated to verify that the users are authorized to access an electronic copy of the work based on random selection, see (Zoest: column 9, lines 1-4).

10) Claim 6 is rejected under 35 U.S.C. 103(a) as being un-patentable over Hershey et al. (U.S. 4,924,378), and further in view of Hatakeyama. ( U.S 6,542,468)

In referring to claim 6, the limitation:

“The security system of claim 1, wherein the assessment of the response times forms an assessment of whether the one or more responses were available a priori, or whether the one or more responses were a result of a time- consuming determination” is not disclosed in Hershey

However, Hatakeyama disclosed how to estimate actual response time, he taught the actual response time is normally actual response times obtained from record having identical paths in the actual response time table, see (column 15, lines 53-67; column 16, lines 1-5). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Hershey as taught in Hatakeyama to estimate response time based on actual response times obtained from record having identical paths in the actual response time table. The

combination would have been obvious because one of ordinary skill in the art would have been motivated to select an optimum path having shortest response time in a network to transmit data (Hatakeyama: column 1, lines 8-18)

11) Claim 11 is rejected under 35 U.S.C. 103(e) as being unpatentable over Sicola et al. (U.S. 6,658,590), and further in view of Hershey et al. (U.S. 4,924,378)

In referring to claim 11, the limitation:

“A method for determining an authorization to process information based on a physical proximity between a receiver and a source of a plurality of data items, the method comprising:

- “Determining a response time of the source of the plurality of data item” is matched (Sicola :column 11, lines 14-20; abstract lines 1-4)
- “Determining the authorization based on the response time” is matched (Hershey: column 5, lines 27-35)

In regard to limitation “Determining a response time of the source of the plurality of data item”

Sicola disclosed a system provides a completely redundant configuration including Fibre Channel fabric links interconnecting each component of two data storage sites. In his invention, Sicola mentions about long distances between sites mean longer response times what means “information based on a physical proximity between a receiver and a source of a plurality of data items Determine a response time of the source.” But Sicola failed to disclose about “determining the authorization based on the response time”

Hershey however disclosed a timer is set when a request is sent out from work station to the License Storage Key to measure the response time for system, and base on the time is set by

Art Unit: 2132

the timer, if a response is not received within the setting time, then an error is returned to requestor, what is share identical functionality with “Determining the authorization based on the response time”

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the method of “Determining a response time of the source of the plurality of data item” as disclosed by Sicola with the method of “Determining the authorization based on the response time” as disclosed by Hershey in order to provide a security management system in which individual application program cannot run unless they are authorized to run (Hershey: column 1, lines 65-67)

12) Claim 12 is rejected under 35 U.S.C. 103(a) as being un-patentable over Sicola et al. (U.S. 6,658,590) in view of Hershey et al. (U.S. 4,924,378), and further in view of Hanes et al. (U.S. 5,440,719)

In referring to claim 11, the limitation:

“The method of claim 11, wherein determining the response time includes, for each data item of a subset o the plurality of data items: request the data item from the source at a first time, receiving the data item at the receiver at a second time, and accumulating a response time measure corresponding to a difference between the second time and the first time; and determining the response time based on the response time measure” is not disclosed in Sicola and Hershey.

Hanes however disclosed the server response time is the time between the arrival of the client request packet at it destination node, and the time the server node transmits a packet in response to the client request, see (column 8, lines 30-37). It would have been obvious to a

person of ordinary skill in the art at the time the invention was made to modify Sicola and Hershey as taught in Hanes to measure response time by measuring the time between the arrival of the client request packet at its destination node, and the time the server node transmits a packet in response to the client request. The combination would have been obvious because one of ordinary skill in the art would have been motivated to measure response time based on the different time between arrival client request and response to the client request (Hanes: column 8, lines 5-7)

13) Claim 13 is rejected under 35 U.S.C. 103(a) as being un-patentable over Sicola et al. (U.S. 6,658,590) in view of Hershey et al. (U.S. 4,924,378), and in view of Hanes et al. (U.S. 5,440,719), and further in view of Hatakeyma (U.S. 6,542,468)

In referring to claim 13, the limitation:

“The response time measure corresponds to at least one of:

- An average of the differences between each second and first time,
- A count based on a comparison of each difference to one or more threshold times, and a statistical parameter based on the differences” is not disclosed in Sicola, Hershey and Hanes.

However, Hatakeyma disclosed a method of determining response time by measure average response time of previous response times, what is equivalent to “The response time measure corresponds to an average of the differences between each second and first times,” see (column 3, lines 23-27, 36-41). It would have been obvious to a person of ordinary skill in the art at the time the invention was made modify Sicola, Hershey and Hanes as taught in Hatakeyma to measure response time based on an average of the differences between each second and first

Art Unit: 2132

times. The combination would have been obvious because one of ordinary skill in the art would have been motivated to measure response time based on an average of the differences between each second and first times, see (Hatakeyama: column 3, lines 23-27, 36-41).

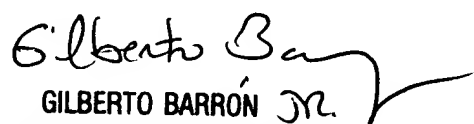
Any inquiry concerning this communication or earlier communications from the examiner should be directed to lan dai thi truong whose telephone number is 571-272-7959. The examiner can normally be reached on monday- friday from 8:30am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lan Dai Thi Truong  
Examiner  
Art Unit 2132

Ldt  
01/01/2005

  
GILBERTO BARRÓN JR.  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100